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REMARKS

I. Rejection under 35 U.S.C. 103(a)

Claims 1-8 and 17-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 5,845,255 – Mayaud in view of U.S. Patent 5,924,074 – Evans. These claims as previously amended are deemed to be patentable for the reasons given below.

Issues.

A key issue is whether Mayaud or Evans shows or suggests "a first portable processing device" that enables a user to establish a "bidirectional communication link with a second portable processing device" as alleged in the Rejection (Rejection pages 2 and 3).

A further issue is whether Mayaud with Evans shows or suggests "a first portable processing device" that enables a user to, (1) select "information to be transferred · in response to user command", (2) establish a "bidirectional communication link with a second portable processing device" and (3) communicate "patient identification information" and the "selected information" on the "established communication link in response to user selection of a displayed icon" shown on the first portable processing device as alleged in the Rejection (Rejection pages 2 and 3).

The Rejection fundamentally miss-understands and miss-interprets both the Evans and Mayaud references and erroneously alleges (on page 3 lines 1-3) that Evans teaches a method "for transferring medical record information between portable devices comprising establishing a bi-directional communication link (Abstract; figs. 3, 5-8 and 19-22; col. 9 lines 10-14)". The Rejection recognizes on page 2 that Mayaud fails to show or suggest "a first portable processing device" that enables a user to establish a "bidirectional communication link with a second portable processing device". However, the Rejection erroneously alleges that Evans teaches a method "for transferring medical record information between portable devices comprising establishing a bi-directional communication link (Abstract; figs. 3, 5-8 and 19-22; col. 9 lines 10-14)". Contrary to the Rejection statements made on page 3, Evans does NOT show or suggest "a first portable processing device" that enables a user to establish a "bidirectional communication link with a second portable processing device". Evans in the Abstract; figs. 3, 5-8 and 19-22; col. 9 lines 10-14 merely contemplates communication with a non-portable host device at a point of care to enable a user to capture data for communication to a fixed location

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non-portable EMR (electronic medical record) repository and access data from the repository (Evans column 2 lines 32-38). Evans in column 9 lines 10-14 relied on in the Rejection discusses "interface 204" that "permits communication with external sources to obtain patient data...and to transfer patient information, from the patient data repository 102 to external healthcare providers". However, interface 204 is resident in fixed location repository 102 and does NOT communicate with a portable device at all. Rather the feature relied on in the Rejection supports bidirectional communication between a fixed location, non-portable patient record repository and other external non-portable systems. This is clear from Evans Figure 12 and accompanying description in column 9 lines 15-20.

Further, neither Mayaud nor Evans alone or together show, suggest or contemplate "a first portable processing device" that enables a user to, (1) select "information to be transferred in response to user command", (2) establish a "bidirectional communication link with a second portable processing device" and (3) communicate "patient identification information" and the "selected information" on the "established communication link in response to user selection of a displayed icon". Neither Mayaud nor Evans alone or together, recognize any advantage in "establishing a bidirectional communication link" supporting bidirectional communication between portable processing devices and enabling a portable processing device to initiate direct bidirectional communication with another portable device. Further, neither reference provides any other reason or motivation for incorporating the claimed arrangement. In contrast, the Application recognizes the need and advantage of such capability and provides a 35 USC 112 compliant enabling description of how such a capability is to be implemented. The system of claim 1 enables "transferring patient record information between portable processing devices by pre-selecting data elements comprising the patient identification information" (Application page 2 lines 24-27, page 5 lines 9-12). The system is also advantageously used (as recited in claim 6 etc.) to validate a user of another portable processing device has authority to access the patient confidential information prior to transfer. These features address the deficiencies of known electronic systems for transferring patient medical data within a hospital, for example (Application page 2 lines 3-8).

Evans and Mayaud are concerned with communication from a portable device to a fixed location non-portable host device for the purposes of data capture to update patient records and to access data in patient records from a fixed location patient record repository. An Email function enabling communication of an email

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message from one portable device to another device, as recognized in the Rejection on page 2, does not show or suggest "establishing **a bidirectional communication link** with a second portable processing device". Email communication does not establish "a communication link" enabling "bidirectional communication". Further, Email is not capable of supporting direct transfer of patient record data from one portable device to another portable device in real time or address the authorization issues involved. In addition, the disclosure in Mayaud or Evans concerning Email is limited to indicating "a Mail button 16" in Figure 1 is usable "for accessing an electronic mail (""E-Mail") system" (Mayaud column 12 line 21). A centralized Email system simply sends an Email message to a central system via a communication link. There is no indication in Mayaud (with Evans) that Email is possible between two different portable devices and no 35 USC 112 compliant disclosure of "establishing **a bidirectional communication link** with a second portable processing device". There is also no suggestion in Mayaud (with Evans) of "establishing **a bidirectional communication link** with a second portable processing device" that addresses the authorization issues involved.

Even if Email communication was possible between two different portable devices, a message sent from a first device is only accessible if a second device at some later time establishes another different communication link to retrieve mail from a mailbox. Such communication does not provide or suggest providing the real time patient record data transfer, authorization and bidirectional capabilities of the claimed arrangement. In contrast, the claimed system is advantageously used (as recited in claim 6 etc.) to validate a user of another portable processing device has authority to access the patient confidential information **prior to data transfer** from a first portable device to a second portable device. These features address the deficiencies of known electronic systems for transferring patient medical data within a hospital, for example (Application page 2 lines 3-8) and are not recognized in the cited reference combination.

Neither reference alone or together contemplates "a first portable processing device" that enables a user to establish a "**bidirectional communication link** with a second portable processing device". Neither Mayaud nor Evans alone or together show, suggest or contemplate "a first portable processing device" that enables a user to, (1) select "information to be transferred in response to user command", (2) establish a "bidirectional communication link with a second portable processing device" and (3) communicate "patient identification information" and the "selected information" on the "established communication link in response to user

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selection of a displayed icon". In addition, the incorporation of the Evans bidirectional communication link between a records repository and external systems into the Mayaud system, provides a portable device able to communicate with a fixed location non-portable record repository and the record repository is able to bidirectionally communicate with other fixed location non-portable systems and devices. Such a system doe NOT provide the features of the claimed arrangement. Further, the arguments presented in the previous amendment addressing the Office Action dated June 17, 2004 are incorporated herein in full. Consequently reconsideration of the Rejection of claim 1 under 35 USC 103(a) is respectfully requested.

Claims 2-8 and 17-22 are considered to be patentable for the reasons given in connection with claim 1 and for the reasons given in the previous amendment addressing the Office Action dated June 17, 2004.

II. Rejection under 35 U.S.C. 103(a)

Claims 9, 10 and 12-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 5,845,255 – Mayaud in view of U.S. Patent 5,924,074 – Evans and further in view of Microsoft Internet Explorer 5.0 (IE). These claims are considered patentable for reasons given in connection with claim 1 and for the following reasons.

Dependent claim 9 recites a method of "transferring medical record information of a patient **between portable** processing devices" by "establishing a bidirectional communication link" between the portable processing devices for "providing **updated patient record** information to a patient record information repository" involving "storing a plurality of **communication settings** associated with a plurality of corresponding communication links; **sequentially initiating communication** on individual communication links, one at a time, using associated corresponding communication settings until an **acknowledgement** is received within a predetermined **time-out window** indicating a communication link with a second portable processing device is established". These features are not shown or suggested in Mayaud with Evans in combination with IE.

The Rejection on page 7 recognizes that Mayaud does not disclose "**sequentially initiating communication** on individual communication links, one at a time, using associated corresponding communication settings until an

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acknowledgement is received within a predetermined **time-out window** indicating a communication link with a second portable processing device is established". However, the Rejection on page 7, states that IE teaches "sequentially initiating communication on individual communication links, one at a time, using associated corresponding communication settings". Contrary to the Rejection statements on page 7, neither IE nor Mayaud with Evans alone or together, suggest a "first portable processing" device "**sequentially initiating communication** on individual communication links, one at a time, using associated corresponding communication settings" for "establishing a bidirectional communication link" between portable processing devices. Further, neither IE nor Mayaud with Evans alone or together suggest employing this process in combination with "providing **updated patient record** information to a patient record information repository".

The IE "Internet Options" and "Connections" submenu relied on in the Rejection pages 7 and 8 allows a user to select a single communication link to use to initiate communication to the Internet, LAN or a Virtual Private Network. It does NOT enable "sequentially initiating communication on individual communication **links, one at a time,** using associated corresponding communication settings". The connections menu does NOT enable "sequential" initiation of communication on **multiple** individual communication **links** "one at a time" at all. There is no capability in the referenced menu to "sequentially" initiate communication on multiple different "communication links". In addition, neither IE nor Mayaud with Evans alone or together suggest "**sequentially initiating communication** on individual communication links, one at a time, using associated corresponding communication settings until an **acknowledgement** is received within a predetermined **time-out window** indicating a communication link with a **second portable** processing device is established".

These features address the deficiencies of known electronic systems for transferring patient medical data within a hospital, for example (Application page 2 lines 3-8). Neither, IE nor Mayaud with Evans address or contemplate these deficiencies. Further, none of the references provide any other motivation or reason for incorporating the claimed features. In addition, the incorporation of the IE features into the Mayaud (with Evans) system, as suggested by the Rejection, results in a system in which a portable processing device initiates Internet or network communication, on a single communication link, with a fixed location host computer using communication settings pre-configured using a configuration menu. Such a

system does NOT provide the features of the claimed arrangement. Consequently withdrawal of the Rejection of claim 9 under 35 USC 103(a) is respectfully requested.

Dependent claim 10 is considered to be patentable based on its dependence on claims 1 and 9. Claim 10 is also considered to be patentable because Mayaud with Evans with IE does not show (or suggest) "sequentially initiating" communication "one at a time" on multiple communication links including "at least two" of "(a) connection via a PC compatible serial port, (b) connection via an infra-red link to a PC compatible serial port, (c) connection via an Ethernet compatible network (d) connection via an infra-red link to an Ethernet compatible network and (e) a wireless network connection". There is no capability in the referenced IE menu used with Mayaud with Evans to "sequentially" initiate communication on two different "communication links" of "(a) connection via a PC compatible serial port, (b) connection via an infra-red link to a PC compatible serial port, (c) connection via an Ethernet compatible network (d) connection via an infra-red link to an Ethernet compatible network and (e) a wireless network connection". The IE "Internet Options" and "Connections" submenu (with Mayaud with Evans) relied in the Rejection pages 7 and 8 allows a user to select a **single** communication link to use to initiate communication to the Internet, LAN or a Virtual Private Network. It does NOT enable "sequentially initiating communication on individual communication links, one at a time, using associated corresponding communication settings.

Amended dependent claim 12 is considered to be patentable for reasons given in connection with claims 1 and 9.

Dependent claim 13 is considered to be patentable for reasons given in connection with claims 1 and 9. Claim 13 is also considered to be patentable because Mayaud with Evans does not show (or suggest) "said set of communication settings include at least two of, (a) data rate, (b) protocol identifier, (c) sender identifier code, (d) error handling code identifier and (e) data format identifier". Mayaud with Evans with IE in Columns 25, 42, 46, Figure 3 and elsewhere, as relied on in the Rejection, does not show or suggest use of two of these parameters for communication between two portable processing devices.

Amended dependent claim 14 is considered to be patentable for reasons given in connection with claims 1 and 9.

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Dependent claim 15 is considered to be patentable for reasons given in connection with claims 1 and 9. Claim 15 is also considered to be patentable because Mayaud with Evans does not show (or suggest) "communicating at least two of (a) username, (b) password, (c) patient identifier, (d) patient gender identifier, (e) patient birth date and (f) calling application identification supporting return of control to said calling application upon completion of communication on an established communication link". Mayaud (with Evans) in column 10, as relied on in the Rejection mentions passwords but does not suggest use of "(a) username...(c) patient identifier, (d) patient gender identifier, (e) patient birth date and (f) calling application identification" together with the features of claims 1 and 9.

Dependent claim 16 is considered to be patentable for reasons given in connection with claims 1 and 9. Claim 16 is also considered to be patentable because Mayaud with Evans with IE does not show (or suggest) "repeating said initiating communication step for a predetermined number of times until a connection is established or a communication failure is declared". There is no suggestion in the combined references of "repeating" "sequential" initiation of communication on multiple individual communication links "one at a time" for a "predetermined number of times until a connection is established or a communication failure is declared".

III. Rejection under 35 U.S.C. 103(a)

Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 5,845,255 – Mayaud in view of U.S. Patent 5,924,074 – Evans and in view of Microsoft Internet Explorer 5.0 (IE) and further in view of U.S. Patent application 2002/0019751 – Rothschild et al.. These claims are considered patentable for reasons given in connection with claims 1 and 9 and for the following reasons.

Dependent claim 11 is considered to be patentable based on its dependence on claims 1 and 9 and for reasons given in connection with these claims. Claim 11 is also considered to be patentable because Mayaud with Rothschild with IE does not show (or suggest) "sequential" initiation of communication on multiple individual communication links "one at a time" "automatically upon detection of a lost connection to support seamless operation of said portable processing device". The Rothschild scheme discussed in paragraph 0088 Relied on in the Rejection on page 9 merely comprises a scheme for polling for, and storing, changed IP addresses. This scheme, with the teachings of the other references, does NOT suggest

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"sequential" initiation of communication on multiple individual communication links "one at a time" automatically "upon detection of a lost connection to support seamless operation of said portable processing device". In addition there is no common problem recognition, motivation or other reason in the three cited references to combine the reference teachings to provide the claimed system. Further, the incorporation of the Evans, Rothschild and IE features with the Mayaud system, as suggested by the Rejection, results in a system in which a portable processing device initiates Internet or network communication, on a single communication link, with a fixed location host computer using communication settings pre-configured using a configuration menu involving polling to find changed IP addresses for updating communication settings. Such a system doe NOT provide the features of the claimed arrangement. Consequently withdrawal of the Rejection of amended claim 1-22 under 35 USC 103(a) is respectfully requested

In view of the above amendments and remarks, Applicants submit that the Application is in condition for allowance, and favorable reconsideration is requested.

Respectfully submitted,

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